

Chairperson John R. Clark  
Vice-Chairperson Michael Parks  
Parliamentarian Don Maxwell



Commissioners  
Michael Beckendorf  
John Bond  
Helen Chavarria  
Ralph Davila  
Robert Horton  
G.H. Jones

## MINUTES

**BRYAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
THURSDAY, DECEMBER 4, 2008  
AT 6:00 P.M.  
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING  
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer:     *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

### **1. CALL TO ORDER.**

Chairperson Clark called the regular meeting to order at 6:00 p.m.

<b>Commissioners</b>	<b>Present</b>	<b>2008 Regular Meetings Held</b>	<b>2008 Regular Meetings Attended</b>	<b>Regular Meetings Held During Last 6 Months</b>	<b>Regular Meetings Attended During Last 6 Months</b>
Michael Beckendorf	Yes	22	18	11	11
Johnny Bond	Yes	22	22	11	11
Helen Chavarria	Yes	22	19	11	10
John R. Clark	Yes	22	21	11	10
Ralph Davila	Yes	22	20	11	9
Robert Horton	Yes	22	19	11	11
G. H. Jones	No	22	19	11	8
Don Maxwell	Yes	22	17	11	10
Michael Parks	Yes	22	18	11	10

Staff members present: Mr. Martin Zimmermann, Planning Administrator; Ms. Julie Fulgham, Project Planner; Mr. Randy Haynes, Staff Planner; Mr. Lee Veness, Assistant City Attorney; and Ms. Kelli Hill, Planning Intern.

### **2. HEAR CITIZENS.**

No one came forward.

### **3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.**

No affidavits were filed.

### **4. CONSENT AGENDA.**

#### **A. Approval of meeting minutes from the workshop and regular meetings on November 20, 2008.**

**Commissioner Maxwell moved to approve the Consent Agenda. Commissioner Chavarria seconded the motion.**

Chairperson Clark asked if there was any discussion. There was none.

**The motion passed with a unanimous vote.**

### **5. Conditional Use Permit CU08-15: Cody Hall**

**R. Haynes**

*A request for approval of a Conditional Use Permit to allow a self storage facility on property in a Retail District (C-2) zoning district, on 4.17 acres of vacant land adjoining the south side of Boonville Road between Wildflower Drive and F.M. 1179 in Bryan, Brazos County, Texas.*

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- The proposed self storage facility conforms to all applicable regulations and standards established by the Zoning Ordinance and is compatible and complementary to the existing residential uses abutting the subject property,
- A new self storage development at this location would not create greater unfavorable effects or impacts on abutting properties than a retail development allowed by right on this property without Conditional Use Permit approval,
- The proposed self storage use will generate significantly less vehicle traffic than many of the uses permitted by right in the C-2 zoning district,
- Any new development on this property, including a new self storage facility, will be required to meet City regulations concerning erosion, flood, fire and other hazards and impacts,
- Adequate and convenient off-street parking is provided on the premises,
- The proposed self storage project meets the objective and purpose of the retail zoning district within which it is proposed to be located,
- The proposed self storage use on the subject property will have few (if any) ill effects on properties or improvements in the vicinity, and the premises are generally suitable for new self storage buildings, so long all applicable development standards are met, and
- Staff recommends approving the request subject to the condition that a site plan fulfilling all the technical requirements for development of a self storage facility on the subject property shall be approved by the City of Bryan's Site Development Review Committee (SDRC), before any building permits are issued.

Responding to questions from Commissioner Davila, Mr. Haynes stated that the buffer requirements can be reduced from 50 to 30 feet with landscaping, but that the Commission can place a condition on approval that the developer maintains the full buffer. He also stated that the area of detention was appropriate for the property because it is in an undeveloped area, and that the engineer will design and present a plan as to how they will provide detention.

Responding to a question from Commissioner Maxwell, Mr. Haynes stated that there is an existing sidewalk on the property, and that this proposal will have to go through the platting process and will be required to show sidewalks at that time.

The public hearing was opened.

Mr. Joe Gattis, engineer for the applicant, came forward to speak in favor of the request.

Responding to questions from Commissioner Parks, Mr. Gattis stated that the developer will meet all applicable ordinances and that the lighting installed will be low impact and specific to the property so that the footprint of the light will not impact the nearby neighborhood.

Responding to a question from Commissioner Davila, Mr. Gattis stated that the property is required to have detention because of the increase in stormwater runoff due to construction of the facility. He stated that the place shown for detention on the conceptual plan is the most logical place for the pond. Mr. Gattis said that the development will be required to capture everything on the property and release it in a controlled manner.

Mr. Gattis stated that sidewalks are already present on the property. He said that they have accommodated requests for a 50 ft easement for a gas line, an overhead electrical line, the extension of an 8-inch water line and for providing sanitary sewer service to the subject tract and the adjacent tract to the east. He stated that the developer wants to put in a nice high-end development, and that he appreciates the Commission's time and consideration.

Mr. Cody Hall, applicant and developer, came forward to speak in favor of the request. Addressing the concerns of Commissioner Parks, he stated that garage bands will not be allowed, and that the development will be a 24-hour facility with building-specific lighting that will not interfere with the nearby neighborhood.

Ms. Joy Caldwell, 3109 Red Robin Loop, Bryan, came forward to voice concerns about the development. She stated that she had submitted a letter to the Commission addressing these concerns and that while she is not opposed to the proposed use; however, she is concerned about the lighting of the facility. She also stated that she is concerned about the drainage on the property and would like to see the buffer remain.

The public hearing was closed.

**Commissioner Chavarria moved to approve Conditional Use Permit CU 08-15, and to adopt staff's written analysis and recommendation, as presented to the Planning and Zoning Commission, as the written findings and written special conditions required under Section 130-33 of the Bryan Code of Ordinances. Commissioner Maxwell seconded the motion.**

Chairperson Clark asked if there was any discussion. There was none.

**The motion passed with a unanimous vote.**

**6. Conditional Use Permit CU08-16: Otis Johnson**

**J. Fulgham**

*A request for approval of a Conditional Use Permit to allow a neighborhood service (barber shop) on property in a Residential District – 5000, specifically on property located at the northeast corner of North Sterling Avenue and West 18<sup>th</sup> Street in Bryan, Brazos County, Texas.*

Ms. Fulgham presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- The proposed barber shop will conform to all applicable regulations and standards established by the Zoning Ordinance and the Land and Site Development Ordinance; no variations from existing standards are being requested,
- The proposed barber shop on the subject property will be compatible with existing uses on abutting sites, most of which are vacant, and the small scale of the proposed barber shop will have minimal impacts on single-family residential uses located in the general vicinity,
- A new barber shop at this location will not create greater unfavorable effect or impacts on abutting properties,
- The proposed barber shop at this location should not have any adverse effects on vehicular and pedestrian traffic in this vicinity and adequate off-street parking is being provided for the size of the proposed barber shop,
- Any new development on this property is required to meet City regulations concerning erosion, flood, fire and other hazards and impacts,
- The proposed neighborhood service at this location should not have any adverse effects on traffic control or adjacent properties, and
- This request conforms to the objectives and purpose of the zoning district in which it is requested because barber shops are specifically named in the zoning ordinance as a use potentially allowed as a neighborhood service.

Responding to a question from Commissioner Davila, Ms. Fulgham stated that the conditional use permit is requested specifically for a neighborhood barber shop and that any other change or request would have to come back before the Planning and Zoning Commission.

Responding to questions from Commissioner Parks, Ms. Fulgham stated that any home must meet the international building code and that manufactured or modular homes are not allowed in this residential district. She stated that this is not a portable building and that it will have to meet all applicable building codes. Ms. Fulgham stated that the number of parking spaces for this development is based on the square footage of the building.

The public hearing was opened.

Mr. Freddie Carter, 407 W 18<sup>th</sup>, Bryan, came forward to speak against request. He stated that he does not see a need for a neighborhood barber shop, and that it will draw more traffic to the area. He asked where people would park if there were more than three people in the shop at one time.

Ms. Barbara Cooper, 4480 Carrabba Road, Bryan, came forward to speak against the request. She stated that she owns the property across the street from the subject property and her concern is about

additional parking. She stated that many children walk to and from Neal Elementary School, and she worries about the additional traffic. She also stated that many elderly people live in the vicinity.

Responding to questions from Commissioner Davila, Ms. Fulgham stated that this was not a zoning change, but that it is a conditional use permit which will only allow a barber shop on the property. She stated that the reason staff recommends approval is because of the small scale of the proposed use. She explained that the property owner can choose at any time to stop the conditional use of the barber shop and use the property as a residential use. Ms. Fulgham stated that if the CUP is approved by the Commission, the property owner has one year to implement the use. Once the owner implements the CUP, the owner can continue that conditional use until he ceases to use it for more than one year.

Mr. Otis Johnson, applicant, came forward to speak in favor of the request.

Responding to questions from Commissioner Parks, Mr. Johnson stated that there will be two chairs in the barber shop and two employees will be present on the property. He stated that he has a parking agreement with the nearby church owners.

Responding to a question from Commissioner Maxwell, Mr. Johnson stated that parking could overflow to the street, but that many people will walk to the barber shop.

Responding to a question from Commissioner Parks, Mr. Johnson said he would be amenable to putting in more parking.

Ms. Fulgham stated that the Commission can place a condition for more parking on the conditional use permit if the Commission is concerned about extra vehicular traffic.

Responding to questions from Chairperson Clark, Ms. Fulgham stated that the minimum number of parking spaces is based on the size of the building, and that she has had no additional comments from the public.

*Commissioner Horton left the meeting at 6:38 p.m. and did not return, a quorum still being present.*

Mr. Zimmermann stated that the off-street parking being provided conforms to the standards of the Land and Site Development Ordinance, but that the Commission has the authority to impose a condition that would require additional off-street parking.

The public hearing was closed.

**Commissioner Parks moved to approve Conditional Use Permit CU 08-16, and to adopt staff's written analysis and recommendation, as presented to the Planning and Zoning Commission, as the written findings and written special conditions required under Section 130-33 of the Bryan Code of Ordinances, and also adding the condition that there be a total of five parking spaces on this property. Commissioner Davila seconded the motion.**

Commissioner Parks stated that the addition of employee parking on the site keeps the use contained to the property.

Commissioner Davila stated that he concurred with Commissioner Parks and that hopefully this condition addresses the citizen concerns heard in the public hearing.

Commissioner Maxwell stated that he was concerned with the structure itself, but it sure it will be nice.

Commissioner Parks stated that he was concerned with that too and would not want anything to detract from the architecture of the neighborhood.

Responding to questions from Commissioners Maxwell and Clark, Ms. Fulgham stated that the two live oaks shown on the site plan fulfill the landscaping requirement, but that staff may have to reevaluate those points with the addition of the extra parking.

**The motion passed with a unanimous vote.**

**7. Rezoning RZ08-22: Kim and Leo Gonzales**

**R. Haynes**

*A request to change the zoning classification from Residential District – 5000 (RD-5) to Office District (C-1) on 0.91 acres of land adjoining the northwest side of Turkey Creek Road south from its intersection with Sandy Lane, being Lots 4, 5, and part of Lot 6 in Block 4 of Oak Glade Addition in Bryan, Brazos County, Texas.*

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- Staff believes that C-1 zoning would provide a suitable transition between the arterial roadway, retail use in front of the existing manufactured housing community and the existing residential neighborhood to the north and, therefore, is appropriate in this particular environment and consistent with the land use recommendations and policies articulated in Bryan's Comprehensive Plan,
- The subject property has direct access to water and wastewater services,
- This zone change request, if approved, will not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development,
- The rate that property is being developed and offered for sale within office zoning districts is somewhat slow in this area,
- Several areas near the subject property are zoned residential but are in business use, and are unlikely to be affected by this zoning change, and
- Staff has identified no factors resulting from this requested zoning change that will affect health, safety, morals, or general welfare.

Responding to questions from Commissioner Parks, Mr. Haynes stated that Hunters Circle would have to be improved in order to provide access from Sandy Point Road, and that the intent in going through site review for the property would be to have all access to the property be off Turkey Creek Road.

Responding to a question from Commissioner Bond, Mr. Haynes stated that the building is currently leased to a daycare operation, but that there is no certificate of occupancy currently issued for the property.

Responding to a question from Commissioner Davila, Mr. Haynes stated that if the zoning remains unchanged, the buffering requirements will not apply, but if the zoning is changed the new office buffering requirements apply. He stated that the building is already sitting in a buffer zone, but when

installing other structures or parking spaces the applicant will have to observe the buffer requirements.

Responding to Chairperson Clark, Mr. Haynes stated that discussion of the abandonment of Hunters Circle has taken place with the applicant, but that would require the approval of the owners of all three of the adjoining tracts. He stated that for this rezoning, staff does not want the office traffic taking access off of Sandy Point Road and that one reason approval is recommended is that this property faces an arterial street.

Commissioner Beckendorf asked if any of the ordinances had a separation requirement between the daycare and the convenience store that may sell alcohol. Mr. Haynes stated that there was not, that the separation requirements are between churches, hospitals and schools.

Mr. Zimmermann reiterated that the request is for office zoning, not daycare specifically.

Responding to questions from Commissioner Parks, Mr. Haynes stated that the proposal has to go through site review if the rezoning is approved, and that in this process parking, access, and landscaping will be improved. He also stated that there will be no variance request for the setback encroachment of the building because it is pre-existing.

Responding to a question from Commissioner Davila, Mr. Haynes stated that any use permitted in the C-1 zoning district could go in on the property.

The public hearing was opened.

Mr. James Herwald, 2314 Sandy Point Road, Bryan, came forward to speak against the request. He stated that in 1996 the City would not let his daughter move a mobile home onto 2312 Sandy Point Road because of the zoning of the lot. He stated that he is not opposed to the zoning being changed to C-1 if he could buy at least half of the lot so that it would not be right next to his property. He also stated that due to the nearby commercial development, there are cars parked along Sandy Point Road and Turkey Creek Road constantly. Mr. Herwald stated that he wants to know how much more traffic will be coming down Sandy Point Road if the zoning is changed.

Chairperson Clark informed Mr. Herwald that the Commission cannot legislate who may buy what property.

Mr. Herwald said he understood this, and then asked what type of building would be allowed there and how high it would be. Mr. Haynes stated the office zoning requires non-metallic siding with a 35 foot height limit.

Ms. Sharon Anderson, 2304 Cindy Lane, Bryan, came forward to speak against the request. She stated that this area was developed when there was no zoning in the city. She stated that she does not see how the City can enforce access from Turkey Creek Road, and that traffic is already a problem in the area and this would only add to the problem. She stated that there are bus stops in the area and that children play in the street, and that this use would increase the possibility of more vehicular conflicts with children. She stated that this use is not a good fit for the neighborhood.

Mr. Leo Gonzales, applicant, came forward to speak in favor of the request. He stated that the extra traffic on Sandy Point Road is a concern, and that he has proposed a one-way drive that enters and

exits from Turkey Creek Road. He stated that the landscaping that is required will prevent people from driving in from Hunters Circle.

Mr. Zimmermann reminded the Commission that the issue at hand is the land use and zoning of the property.

Mr. Gonzales stated that this property predates most of the houses in the neighborhood, and that he knew it was residential zoning when he purchased the property.

Responding to questions from Commissioner Maxwell, Mr. Gonzales stated that he would not object to Hunters Circle being closed, but that it might block the access to 2312 Sandy Point Road.

Responding to a question from Chairperson Clark, Mr. Gonzales stated that he would not have a problem with the City divvying up the property from Hunters Circle among the property owners as long as he was not burdened with paving the area.

Responding to questions from Commissioner Maxwell, Mr. Gonzales stated that the property is currently in operation as a daycare for six children, but that the neighborhood has more traffic from the surrounding businesses than it does from the daycare.

Responding to a question from Commissioner Davila, Mr. Haynes stated that were the zoning denied, the business owner could not use the facility as a Class C daycare but the grandfathered use of the property would not go away. He stated that this change is an opportunity to gain some buffer zones and clean up the area.

Responding to a question from Commissioner Parks, Mr. Haynes stated that the citizens can ask the city to vacate the public right-of-way on Hunters Circle with a \$50 application fee and a professional survey.

Mr. Gonzales stated that this area is zoned for office on the City's Comprehensive Plan and that this would be a great improvement for the area.

The public hearing was closed.

**Commissioner Parks moved to recommend approval of Rezoning RZ 08-22 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Bond seconded the motion.**

Commissioner Parks stated that the issue is for a rezoning and that the Commission spent an inordinate amount of time discussing the use. He stated that the future land use plan shows zoning other than residential, and that there are ways to vacate Hunters Circle.

Commissioner Bond stated that he concurred with Commissioner Parks, and asked if there can be a recommendation to close Hunters Circle and divide the property between the three land owners. Mr. Veness stated that the citizens could close the street with a petition.

Responding to a question from Chairperson Clark, Mr. Veness stated that the City can pay for a survey of the right-of-way, but not for one that included the lot(s).

Chairperson Clark stated that it is in everyone's best interest that Hunters Circle be closed.



Mr. Veness stated that the decision to close Hunters Circle would be given to the City Council through a long process.

**The motion passed with a vote of five (5) in favor and two (2) opposed. Commissioners Beckendorf and Davila cast the votes in opposition.**

**8. Planning Variance PV08-36: Tom Rike**

**R. Haynes**

*A request for approval of a 14-inch variance from the minimum 7.5-foot side building setback generally required on lots in residential zoning districts of Bryan, to allow construction of a building addition to a residence that extends within 6.3 feet from the south side property line on property at 2210 East Briargate Drive between Trophy and Par Drives, occupying Lot 11 in Block 2 of Briarcrest Valley Subdivision – Phase 6 in Bryan, Brazos County, Texas.*

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- Granting the requested variance will have no detrimental effect on public health, safety and welfare nor will it be injurious to area properties, and
- Denying the request will prevent the applicants from being able to construct a building addition in alignment with their existing house, which is set back less than the minimum required 7.5 feet; staff believes that this circumstance creates a special condition not common to all residential districts and contends that, in this particular case, requiring compliance with the 7.5 foot side building setback would create unnecessary hardship.

Responding to a question from Commissioner Parks, Mr. Haynes stated that this construction will be in the same plane of the main structure's outer wall.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Maxwell moved to approve Planning Variance PV 08-36, because strict compliance with the regulation will result in undue hardship, and in so moving adopt the written staff report and analysis as the findings of the Commission and the facts upon which those findings are based, with the understanding that such findings and facts will be entered into the official minutes of this Planning and Zoning Commission meeting. Commissioner Beckendorf seconded the motion.**

Chairperson Clark asked if there was any discussion. There was none.

**The motion passed with a unanimous vote.**

**9. ADJOURN**

Without objection, Chairperson Clark adjourned the meeting at 7:54 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the **18<sup>th</sup>** day of **December, 2008**.

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John R. Clark, Chairperson  
Planning and Zoning Commission  
City of Bryan, Texas

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Martin Zimmermann, Planning Administrator  
and Secretary to the Planning and Zoning  
Commission